P 9

C.F. 72.

1940.

Department of Revenue

OFFICE Board of Revenue.

STATION Madras.

B. P. Fls. **No.** 3190

DESPATCHED
14 NOV 1940

Dated 13-XI-140.

B 46-13-40

Pages in the file C.F. – 8
N.F. – 2

(SUBJECT.)

Assignment - town Site (Sarls Kanara)
Udipi Th. & Town - Badagaketu vge. -
S. no. 169/7 A. breach of conditions of grant.
resumption and re-entry - Filing of Suit
Sanctioned.

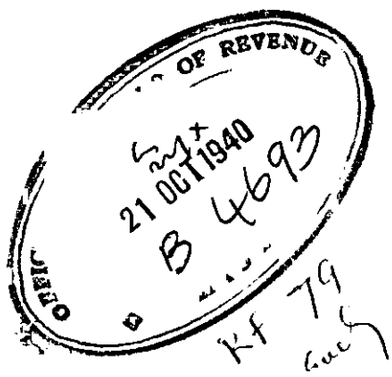
C.F. 32.

In reply, please quote number, date and short title.

_____ DEPARTMENT. B4 2112.

Received _____ *Registered* _____

From (Name) M. V. Subrahmanyan Esq:, M.A.,I.C.S.,
(Designation) Collector of South Kanara.
Post Box _____, (Station) Mangalore.
Telegraphic Address _____



To

The Secretary to the Board,
Land Revenue and Irrigation,
M a d r a s.

Ref.A3 *No.* 4807-40, *dated* 15 - 10 - 1940.

Sir,

ENCLOSURES _____
_____
_____

SPARE COPIES _____

Assignment - land - Udipi Taluk -Badagabettu village - S.No. 169/7A -Breach of conditions - cancellation of assignment - peaceful reentry - not possible -taking possession -filing of suit - sanction sought.

****

S.No. 169/7A of Badagabettu village, Udipi Taluk within the town limits of Udipi was assigned to a member of a class eligible for the ------- ameliorative measures of Government, Aitha, under the Town site rules in this office Proceedings R.Dis. 2157-31 dated 29-5-31. The assignee having failed to construct the building as required by condition 3 of the grant and having allowed a person belonging to another class Gopi, to occupy the land and construct a shed thereon, the ------- assignment was cancelled and reentry ordered by the Revenue Divisional Officer, Coondapoor, in his order N.Dis.6024-39 dated 13-9-39. Notice regarding the cancellation of the assignment of the plot in ----- question was served on the assignee in person and on the occupier, Gopi by affixture to her residence as she refused to accept it. But, as she failed to vacate the land, peaceful reentry could not be effected. The plot is reported to contain a hut built by Gopi and 2 cocoanut plants planted by the

assignee. The cost of the improvements is estimated at Rs. 4/-. B.P. Mis. 2986-1927 dated 11-10-1927 lays down that in a case where the plot conditionally assigned containing buildings which are occupied, is to be reentered, it should be dealt with on its merits after filing a suit, if necessary. In the present case, the plot contains a hut and the occupier, Gopi has not vacated the land though a notice was duly served on her. The only course left open is to file a suit against the assignee and the occupier for recovering the possession of the plot in question though a court of law. I, therefore, propose to file a suit against the assignee and the occupier and I request that necessary sanction may be accorded.

2. A copy of the plaint proposed to be filed and this office R.Dis. 2157-31, D.R. 20/1940 and Taluk file B3-2411-40 are enclosed.

For Collector.

17.10.40

IN THE COURT OF THE DISTRICT MUNSIF OF UDIPI.

O.S.No. /1940.

Between:

The Province of Madras ... ... Plaintiff.

And

1. Aitha.
2. Gopi Pujarthi. ... ... Defendants.

******

Plaint under Section 26 and Order VII, Rule I C.P.C.

The plaintiff abovenamed begs to state as follows:-

I. The Plaintiff is the Province of Madras represented by the Collector of South Kanara, Mangalore.

II. Aitha, defendant 1 is the son of Mudara of Badagabettu -- village, Udipi Taluk; defendant 2 Gopi Pujarthi is the daughter of Gangu Pujarthi, residing in Chitrapady Colony of Badagabettu village, Udipi Taluk. The address for service of the defendants is the same

III. 1. The immovable property fully described in the schedule below belonged to Government and was in its possession and ----- enjoyment.

2. On application made by the 1st defendant, the plaint property was assigned to him by the Collector of South Kanara on 29-5-1931 in his proceedings R.Dis. 2157-31, dated 29-5-1931 ---- under the Town Site Rules under the provisions of B.S.O.No. 21, - free of site value subject to the terms and conditions mentioned therein. A true copy of the order of assignment is produced --- herewith and may be read as part of the plaint.

3. The grant provides inter alia,

(a) That on the site shall be built and completed a thatched house of the dimensions indicated in the margin within a period of twelve months from the 29th day of May, 1931.

$4\frac{1}{2}' \times 7\frac{1}{2}' \times 22\frac{1}{2}'$

(b) That if a building of the dimensions specified -- above or of such other description and dimensions as may -- be substituted therefor with permission previously obtained, is not substantially completed within the time mentioned or if ----

such a building is erected but is subsequently abandoned i.e., left unoccupied and in disrepair for a period of one year from the date of grant or if the site or building thereon be ------ alienated by way of sale, gift, mortgage, lease of any kind --- except to other members of the Depressed Classes or ceases to - be owned by the assignee or his legal heirs or other members of the Depressed Classes owing to sale by process of law or ----- otherwise Government shall have the right to re-enter forthwith and take possession of the said site or the site and building.

(c) That Government shall not be liable when they ----- exercise the rights of cancellation and re-entry to pay any --- compensation for any building or other improvements then existing on the land."

4. The assignee, the 1st defendant, however, committed - breach of the aforesaid conditions. He did not building or -- complete any thatched house within the stipulated time. He -- also transferred the property to the 2nd defendant who is not a member of the Scheduled Classes, let her into it, and allowed - her to be in possession and enjoyment thereof by building a --- house and residing therein.

5. The condition of the grant referred to in para 3 above having thus been violated, the Government became entitled to -- cancel the grant and re-enter the property without any objection on the part of the defendants, and cancellation was ordered under the order of the Revenue Divisional Officer, Coondapoor on ---- 13-9-1939.

6. ~~Notice was accordingly issued to the assignee 1st -- defendant on 31-3-1952~~ On 5-11-1939, the Revenue Inspector, Udipi proceeded to re-enter the property, but the 2nd defendant would not give up peaceful possession thereof.

7. The plaintiff submits that the grant having been forfeited by reason of the alienation in favour of the 2nd defendant, and the non-building of the house by the 1st defendant and the ---- assignment having been duly cancelled, the Government is entitled to re-enter the land and take possession thereof, along with --

all the improvements therein as reserved to it by the terms of -- the grant.

8. The plaintiff is thus constrained to institute this --- suit for possession of the plaint property along with past mesne profits from the date of obstruction at Rs. 4-1-0 a year and --- future mesne profits at the same rate.

9. The cause of action for this suit arose on 13-9-1939 -- the date of cancellation of the assignment and subsequently at Badagabettu village within the jurisdiction of this Court.

10. The plaintiff values the reliefs claimed in this suit at Rs. for the purpose of Court fees and jurisdiction.

11. Plaintiff, therefore, prays for a decree and judgment

(a) Directing delivery of possession to the plaintiff of -- the undermentioned property in the schedule hereto; this ------ relief being valued at 10 times the assessment of Rs.1-15-0 plus the value of the building Rs. 3/- .... Rs. 22-6-0.

(b) Past mesne profits at Rs.4-1-0 a year from 28-3-1940 up to the date of the plaint. ... ...

(c) Future mesne profits at the same rate.

(d) Costs of this suit and interest.

(e) and such other and future reliefs as this Court might deem fit.

South Kanara Collector's Office,
Mangalore, dated 16th Octr. 1940.

For Collector.

17.10 LC

7

Z. W. S.

Assignment - town site (Sault Kanara)
Udipi Th. & Taun. Badagalethu
rge. - S. no. 169/7A - breach of
conditions of grant -
resumption and re-entry -
recovery of possession -
filing of suit ~~for possession~~ -
Sanctioned.

pp. 1124/B 4693-40 - Collr. of Sault Kanara Ref. no.
B3-4807/40 d. 15/x/40.
B. P. Mis. no. 3159 d. 13-x1-40.

In the circumstances
stated by the Collr. in his
letter read above, the Board
sanctions the filing of a suit
for recovery of possession of
S. no. 169/7A of Badagalethu rge.,
Udipi Th. & Taun and for
mesne profits and approves
the draft plaint enclosed
with his letter.

18/12/11

11/x1/40.

To

The Collr. of S. Kanara.
Mts. this Rdgs: 2157-31, Th.
D. R. 20-40 & Th. file B3-2411-40.
Retd.

M2

A:S.(R)

Note file.

Assignment - land (Sants Kanara) - Udipi Tk. Udipi Town - Badagabettu vge. - S.no. 169/7A. breach of conditions of grant - resumption and re-entry - filing of suit for possession - Sanction requested. ---

B4693-40. Collr. of Sants Kanara Ref. A3-4807-40 d. 15/x/40.

Sketch at p. 7 f. (U)

The Collr. asks for the Board's sanction for the filing of a suit to recover possession of S.no. 169/7A (17 cents) of Badagabettu village, Udipi Town which was assigned to Bitta, a member of the eligible classes, under the town site rules in Collrs. Rev. 2157-31 d. 29-5-31. According to the conditions of assignment (1) the assignee was bound to build a thatched house on the land within one year from 29-5-31. The assignee/was also forbidden to alienate the land by way of sale, gift, mortgage or lease of any kind except to other members of the eligible classes. The assignee committed a breach of both these conditions in that he did not put up a hut on the land himself but allowed Gopi, a woman not of the eligible class, to put up a hut on the site and to occupy it. The assignment was ∴ cancelled by the RDO, Coondapoor under condition 4 of the order of grant in his N.Dis. 6024-39 d. 13-9-39. Peaceful re-entry on

References.

1. R. File B3-2411-40 (T)
2. R.A.R. 20-40 d. 29-5-31 (U)
3. Collrs. Revs. 2157-31 d. 29-5-31 (V)
4. B.P.Proc.-29 86-d. 11-x-39 (A)

(V)

(V)

the land could not be effected as Gopi, the occupier, has not vacated the land. The Collr. requests the Board's sanction for the institution against the assignee and the occupier of a suit to recover possession of the land. He has enclosed a draft plaint for the Board's approval. The Board may sanction the institution of the suit and approve the draft plaint submitted by the Collr. The draft plaint has been scrutinized by the office and found to be in order.

B

The land contains a hut which is occupied. This case would fall under instruction (5) of the instructions issued under Govt in G.O. Ms 1549 Rev of 4-10-27. As the occupier of the hut has not vacated the land in spite of a notice served on her, the necessity for instituting a suit has arisen.

31/X/40

For a precedent please see B.P. Ms 3652 of 21-12-35 — p11 of (A); p10 of (A1); p2 of; p7 of (K)

KA 5/X1

The breach of condition consists in transfer of the site to a married female is heir at law.

The proposed pecit is for possession & mesne profits.

B may be approved.

6. XI. 40

Draft submitted.

9/11

11/XI/40. KA 11/XI

A.S(L.R).

B.P.Ms. 3199 d. 13-XI-40.

~~Full Board.~~ Single Member.

1-A.	A.D.S. & L.R.	Asst. Secretary L.R. Sett. Sep.Rev.	Joint Secy.	Secy.	M-4.	M-3.	M-2.	M-1.
							+	✓

1. Open file seen by ✓
2. Final draft seen by ✓
3. Now circulated to
4. Initials.

Passed for record.

Secretary

Joint Secretary.

~~A.S. (C.W.)~~

A.S. (L.R.) 2

~~A.S. (Sett.)~~

A.S. (Excise)

A.D.S. & L.R.

~~1-A.~~

Note- Entries not required to be scored out.

VVS. 12-11-40.